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8 UNITED STATES DISTRICT COURT  
9 SOUTHERN DISTRICT OF CALIFORNIA  
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11 IN RE: INCRETIN MIMENTICS  
12 PRODUCTS LIABILITY LITIGATION  
13

14 *This Document Relates to All Cases*  
15  
16

Case No. 3:13-md-02452-AJB-MDD

**PLAINTIFFS' REQUEST FOR  
DOCUMENTS RELATING TO  
THIRD PARTY SUBPOENA**

Hon. Anthony J. Battaglia

17 **PLAINTIFFS' INTRUCTIONS, DEFINITIONS AND REQUESTS FOR**  
18  
19 **PRODUCTION OF DOCUMENTS RELATING TO THIRD PARTY**  
20 **SUBPOENA OF DIABETES RESEARCH INSTITUTE FOUNDATION**

21 TO ALL PARTIES HEREIN AND THEIR ATTORNEYS OF RECORD:  
22

23 PLEASE TAKE NOTICE that, pursuant to Federal Rule of Civil Procedure 45,  
24 the Plaintiff Steering Committee for the In Re: Incretin Mimetics Product  
25 Liability Litigation has issued a subpoena to the **Diabetes Research Institute**  
26 **Foundation, University of Miami**, 200 S. Park Road, Suite 100 Hollywood, FL  
27  
28

1 33021.

2 DATE OF PRODUCTION: **On or before February 3, 2014**

3  
4 LOCATION OF PRODUCTION: **Neal L. Moskow, Esq.**

**URY & MOSKOW, LLC**

833 Black Rock Turnpike

Fairfield, CT 06825

Tel 203-610-6393

Fax 203-610-6399

neal@urymoskow.com

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8 **INSTRUCTIONS**

- 9  
10 1. In responding to this Subpoena for the Production of Documents, you are  
11 required to produce all documents known or reasonably available to you,  
12 regardless of whether such documents are in your possession, custody or  
13 control of your agents, consignees, representatives or investigators, or your  
14 attorneys or their agents, employees, representatives, or investigators.  
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16 2. All documents produced in response to this subpoena shall be either:  
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18 a. Produced in the order and in the manner that they are kept in the  
19 usual course of business; or  
20  
21 b. Organized and labeled to correspond with the categories in the  
22 subpoena.  
23  
24 3. Documents attached to each other should not be separated.  
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26 4. All documents that exist in electronic form are to be produced in electronic  
27 form and in their native form or other searchable form, not in an electronic  
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1 form that is merely a picture of a document, such as a TIFF file or a PDF  
2 file.

3  
4 5. In the event that any Document called for by this Subpoena for Production  
5 of Documents is being withheld under claim of privilege, work product, or  
6 for any other reason, please set forth the following information:

7  
8 a. The general subject matter of the document and a description of the  
9 file or other location where it was found;

10 b. The title, heading or other location where it was found;

11 c. The date appearing on the document (if no date appears thereon, then  
12 the approximate date on which the document was prepared);

13 d. The general nature or description of the document (i.e., whether it is  
14 a letter, memorandum, invoice, etc.), including the number of pages,  
15 attachments and appendices of which it consists;

16 e. The identity of each person who prepared, authored or signed the  
17 document;

18 f. The identity of each person to whom the document (or copy or blind  
19 copy thereof) was addressed and/or sent;

20  
21 6. In the event that any Document called for by this Subpoena for the  
22 Production of Documents has been destroyed, discarded, otherwise  
23 disposed of, or no longer exists, that Document is to be identified as  
24 completely as possible, including, without limitation, the following

1 information: author(s), addressee(s), indicated or blind copy recipient(s),  
2 date, subject matter, date of disposal, reason for disposal, person  
3 authorizing disposal of the Document, and identify its last known location  
4 and the reason it is no longer in existence.  
5

- 6  
7 7. In the event that any information is redacted from a Document produced  
8 pursuant to this Subpoena for the Production of Documents, that  
9 information is to be identified, and the basis upon which such information  
10 is redacted is to be fully stated.  
11

## 12 **DEFINITIONS**

- 13  
14 A. “DOCUMENTS” includes all types of documents, data, and tangible  
15 things that are discoverable under the Federal Rules of Civil  
16 Procedure, regardless of their form, including, but not limited to all  
17 documents and electronically stored information in your possession,  
18 custody or control- including writings, drafts, drawings, graphs,  
19 charts, photographs, sound recordings, films, images,  
20 correspondence, e-mails, notes, publications, DVDs, CDs, and other  
21 data or data compilations – stored in any medium from which  
22 information can be obtained either directly or indirectly or, if  
23 necessary, translated into a reasonably usable form.  
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1 B. A "DOCUMENT" is deemed to be your actual or constructive  
2 possession, custody or control if you are in physical custody or if it is  
3 in the physical custody of any person that a you oversees, supervises  
4 or directs and the you (a) owns such document in whole or in part;  
5 (b) has a right by control, contract, statute, industry or academic  
6 custom (or otherwise), to use, inspect, examine, or copy such  
7 document; (c) have an understanding, express or implied that you  
8 may use, inspect, examine or copy such document in any terms; or  
9 (d) have, as a practical matter, been able to use, inspect, examine, or  
10 copy such document when you have seen fit to do so as someone  
11 associated with the Diabetes Research Institute Foundation,  
12 University of Miami.

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14 C. "RELATED TO," means regarding, reflecting, concerning, showing,  
15 relating to, referring to, describing, evidencing, or constituting.

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17 D. "COMMUNICATION" means any exchange or transfer of  
18 information in the form of acts, ideas, inquiries, or otherwise,  
19 whether written, oral, electronic or in any other form.

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21 E. As used in this Notice, the term "YOU" means the answering party.

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23 F. As used in this Notice, the term "RESEARCH" means all scientific,  
24 medical, historical, clinical, animal, epidemiological, mega analysis,  
25 data, regulatory, financial or other studies, investigations, tests,  
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1 papers, presentations, posters, articles, literature, reports, etc. that  
2 you have participated in (as an investigator, author, researcher,  
3 director, drafter, coordinator, signatory, etc.) and/or you are currently  
4 participating in any way.  
5

6 G. As used in this Notice, the term “FUNDED RESEARCH” means any  
7 and all scientific, medical, historical, clinical, animal,  
8 epidemiological, regulatory, financial or other studies, investigations,  
9 tests, papers, presentations, posters, articles, literature, reports, etc.  
10 that you have participated in (as an investigator, author, researcher,  
11 director, drafter, coordinator, signatory, etc.) and that were/are  
12 funded/paid for/supported in whole or in part (including but not  
13 limited to, the provision of payments, product, facilities or other  
14 material support) by Amylin Pharmaceuticals, Inc., AstraZeneca  
15 Pharmaceuticals, LP, Boehringer Ingelheim Pharmaceuticals, Inc.,  
16 Bristol Meyers Squibb Company, Eli Lilly and Company, Merck and  
17 Company and/or Novo Nordisk, Inc.  
18

19 H. As used in this Notice, the term “CONSULTANT  
20 ENGAGEMENTS” means any and all positions held, personal  
21 services provided, appointments to and/or projects undertaken for  
22 Amylin Pharmaceuticals, Inc., AstraZeneca Pharmaceuticals, LP,  
23 Boehringer Ingelheim Pharmaceuticals, Inc., Bristol Meyers Squibb  
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1 Company, Eli Lilly and Company, Merck and Company and/or Novo  
2 Nordisk, Inc., including but not limited to, the following activities:  
3 research, presentations, speaking engagements, publication,  
4 review/analysis of research by others; participation on boards,  
5 advisory committees and groups and/or any other activities  
6 associated with Amylin Pharmaceuticals, Inc., AstraZeneca  
7 Pharmaceuticals, LP, Boehringer Ingelheim Pharmaceuticals, Inc.,  
8 Bristol Meyers Squibb Company, Eli Lilly and Company, Merck and  
9 Company and/or Novo Nordisk, Inc. that the deponent engaged in.  
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13 I. As used in this Notice, the term “ASSOCIATED WITH” means to be  
14 employed by, consultant to, agent of, volunteer with, owner of,  
15 advisor to, board member of, join venture with, shared participation  
16 in or otherwise affiliated with an entity.  
17

18 J. As used in this Notice, the term “BUTLER ARTICLE” refers to that  
19 certain published scientific paper as follows: Butler PC, Dry D,  
20 Elashoff D. *GLP-1–Based Therapy for Diabetes: What You Do Not*  
21 *Know Can Hurt You. Diabetes Care*, February 2010 33:453-455.  
22

23 K. As used in this Notice, the term “BUTLER ARTICLE II” refers to  
24 that certain published scientific paper as follows:  
25 Butler PC, Elashoff M, Elashoff R, Gale EAM. *A critical analysis of*  
26  
27  
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1                   *the clinical use of incretin-based therapies: are the GLP-1 therapies*  
2                   *safe?* **Diabetes Care** 2013;36:2118–2125.

3  
4           L. As used in this Notice, the term “BUTLER ARTICLE III” refers to  
5           that certain published scientific paper as follows: Butler AE,  
6           Campbell-Thompson M, Gurlo T, Dawson DW, Atkinson M, Butler  
7           PC. *Marked Expansion of Exocrine and Endocrine Pancreas with*  
8           *Incretin Therapy in Humans with Increased Exocrine Pancreas*  
9           *Dysplasia and the Potential for Glucagon-Producing*  
10           *Neuroendocrine Tumors.* **Diabetes** 2013;62:2595–2604.

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13          M. “GLP-1” means glucagon-like peptide 1.

14          N. “DPP-4” means dipeptidyl peptidase-4.

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16          O. “GLP-1 Based Therapies” means any medication in the drug classes  
17               of GLP-1 agonists and DPP-4 inhibitors, including, but not limited  
18               to, exenatide (Byetta), extended release exenatide (Bydureon),  
19               liraglutide (Victoza), sitagliptin (Januvia), saxagliptin (Onglyza),  
20               alogliptin (Tajdenta), alogliptin (Nesina) and any other medication  
21               that combines a GLP-1 agonist or DPP-4 inhibitor with any other  
22               medication.  
23  
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25                   **REQUESTS FOR PRODUCTION OF DOCUMENTS**

26               Pursuant to F.R.C.P. 30(b)(2) and 45(a)(1)(C & D), you are hereby  
27               requested and expected to produce any and all of the following DOCUMENTS:  
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1. Any and all documents related to GLP-1 Based Therapies, including, but not limited to, research, communications and consulting engagements with respect thereto.
2. Your current Curriculum Vitae.
3. Any and all documents related to any analysis of GLP-1 Based Therapies research (whether completed by you or others).
4. Any and all documents related to the research, drafting and/or publication of the article, *An Analysis of Characteristics of Subjects Examined for Incretin Effects on Pancreatic Pathology*. **Diabetes Technology & Therapeutics**, Vol. 15, Num. 8, 2013; 10.1089/dia.2013.0177, including all interim versions or drafts of the article.
5. Any and all documents related to your Author Disclosure Statement in the article, *An Analysis of Characteristics of Subjects Examined for Incretin Effects on Pancreatic Pathology*. **Diabetes Technology & Therapeutics**, Vol. 15, Num. 8, 2013; 10.1089/dia.2013.0177, including all interim versions or drafts of the Author Disclosure Statement.
6. Any and all documents related to the Butler Article.
7. Any and all documents related to the Butler Article II.
8. Any and all documents related to the Butler Article III.
9. Any and all communications related to the Butler Article, including, but not limited to, communications with other researchers/scientists/physicians/colleagues and anyone who (a) was at the time of the communication, and/or (b) currently is associated with, the following entities: Amylin Pharmaceuticals, Inc., AstraZeneca Pharmaceuticals, LP, Boehringer Ingelheim

1                   Pharmaceuticals, Inc., Bristol Meyers Squibb Company, Eli Lilly and  
2                   Company, Merck and Company and/or Novo Nordisk, Inc.

3                   10. Any and all communications related to the Butler Article II,  
4                   including, but not limited to, communications with other  
5                   researchers/scientists/physicians/colleagues and anyone who (a) was  
6                   at the time of the communication, and/or (b) currently is associated  
7                   with, the following entities: Amylin Pharmaceuticals, Inc.,  
8                   AstraZeneca Pharmaceuticals, LP, Boehringer Ingelheim  
9                   Pharmaceuticals, Inc., Bristol Meyers Squibb Company, Eli Lilly and  
10                  Company, Merck and Company and/or Novo Nordisk, Inc.

11                11. Any and all communications related to the Butler Article III,  
12                including, but not limited to, communications with other  
13                researchers/scientists/physicians/colleagues and anyone who (a) was  
14                at the time of the communication, and/or (b) currently is associated  
15                with, the following entities: Amylin Pharmaceuticals, Inc.,  
16                AstraZeneca Pharmaceuticals, LP, Boehringer Ingelheim  
17                Pharmaceuticals, Inc., Bristol Meyers Squibb Company, Merck and  
18                Company and/or Novo Nordisk, Inc

19                12. Any and all documents related to GLP-1, DPP-4, GLP-1 Based  
20                Therapies, pancreatic cancer, pancreatic pathology, pancreatic  
21                neuroendocrine tumors and pancreatic necrosis, including a potential  
22                association GLP-1 and DPP-4 based diabetes medications and  
23                pancreatic cancer.

24                13. Any and all manuscripts of any research related to GLP-1, DPP-4,  
25                GLP-1 Based Therapies, including interim versions or drafts,  
26                submitted for publication by you or on your behalf.

27                14. Any and all communications with the United States Food and Drug  
28

1 Administration related to GLP-1, DPP-4, GLP-1 Based Therapies,  
2 including documents and/or research that you identified and/or  
3 supplied thereto.

4 15. Any and all communications with the European Medicines Agency  
5 related to GLP-1, DPP-4, GLP-1 Based Therapies, including  
6 documents and/or research that you identified and/or supplied  
7 thereto.

8 16. Any and all of the following documents related to your Funded  
9 Research: contracts, invoices, purchase orders, correspondence,  
10 accounting statements, honoraria, communications,  
11 checks/drafts/instruments, receipts or other evidence of charges,  
12 payments and/or material support for such Funded Research.

13 17. Any and all of the following documents related to your Consultant  
14 Engagements: contracts, invoices, purchase orders, correspondence,  
15 accounting statements, honoraria, communications,  
16 checks/drafts/instruments, receipts or other evidence of charges and  
17 payments for such Consultant Engagements.

18 18. Any and all communications with Amylin Pharmaceuticals, Inc.,  
19 AstraZeneca Pharmaceuticals, LP, Boehringer Ingelheim  
20 Pharmaceuticals, Inc., Bristol Meyers Squibb Company, Eli Lilly and  
21 Company, Merck and Company and/or Novo Nordisk, Inc. or their  
22 counsel reflecting or referring to this deposition notice, the  
23 deposition and/or the production of documents.

24  
25 Respectfully submitted:  
26  
27  
28

1 Dated: December 31, 2013

NEAL L. MOSKOW  
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5 By: /s/ Neal L. Moskow  
6 Neal L. Moskow  
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8 Dated: December 31, 2013

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11 By: /s/ Gayle M. Blatt  
12 Gayle M. Blatt  
13 Plaintiffs' Co-Liaison Counsel

14 Dated: December 31, 2013

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17 By: /s/ Ryan L. Thompson  
18 Ryan L. Thompson  
19 Plaintiffs' Counsel

20 Dated: December 31, 2013

HUNTER J. SHKOLNIK  
NAPOLI BERN RIPKA SHKOLNIK

22 By: /s/ Hunter J. Shkolnik  
23 Hunter J. Shkolnik  
24 Plaintiffs' Counsel

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Dated: December 31, 2013

TOR A. HOERMAN  
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